

Outline for Discussion:
Work Scope, Program Choices, Survey of Other Jurisdictions
Private Sector Arts Requirement
Working Group Meeting #1
February 2, 2016

Purpose: Provide a brief re-cap of KMA’s work scope and the concept of a private sector arts requirement. Describe some of the key choices in the design of a program. Brief overview of programs in other jurisdictions.

Topics Addressed	<u>Page</u>
I. KMA work scope recap	2
II. Overview of Concept	2
III. Key Program Choices	3
IV. Overview of Programs in Surveyed Jurisdictions	5

I. KMA Work Scope Recap – Private Sector Arts Requirement

KMA's work scope in relation to a private sector arts requirement includes the following elements:

- In-depth review of 9 programs elsewhere for ideas, experience and inspiration
- Recommend a framework for adoption of a private sector arts requirement in Boulder
- Revenue estimate – rough estimate of annual revenue for planning purposes

The City of Boulder's Draft Community Cultural Plan serves as a starting point and reference guide for KMA in completion of the work.

II. Private Sector Arts Requirement –Concept

Private Sector Art Requirement: A program that requires private development projects to contribute to art. (Note: private requirement programs are usually in addition to commitments for art in public buildings and infrastructure projects)

Basic Requirement: The basic requirement is to include art in private development projects. The level of the requirement is usually expressed as a percent of building permit valuation, most commonly 1% of permit valuation.

Alternatives – The program can include alternatives – on-site art, payment of an in-lieu fee, off-site art, programming / performance art.

Not an impact fee - This is a requirement imposed through the City's broad authority to regulate land use and aesthetics. The principal requirement is inclusion of art within the private project.

We found no other Colorado cities that have adopted the type of private sector requirement that is being contemplated.

III. Key Choices - Design of a Private Sector Arts Program

The following outlines a number of program elements that would need to be decided upon in designing and adopting a private sector arts requirement program for Boulder.

1. How may a private development project fulfill the requirement?

- On-site art integrated within the project? (Most programs)
- Payment to an arts fund for the City? (Wheat Ridge)
- Off-site art?
- Art broadly defined to include cultural arts (incl. performing arts per Draft Community Cultural Plan)?

2. What is the amount or valuation of the requirement?

- Equivalent to a percent of building permit valuation (typically 1%)
- An amount per square foot building area (Tempe AZ)

3. What kinds of private development projects should be subject to the requirement?

- Most common: Commercial (retail, office, hotel)
- Also common: Industrial, Multifamily
- Sometimes included: Other non-residential, single family, additions and alterations

4. What are the City's preferences and priorities?

- Primarily on-site art integrated into buildings?
- Fee payment revenue?
- Some sort of split obligation? (Pasadena)

5. Assuming both on-site and fee payment are part of the program, are there preferences?

- Always allow a choice – no incentives, no preferences, no requirements
- Allow a choice but encourage in lieu payment except for very large projects due to administrative costs (City) and process costs (volunteers on Commission)
- Strongly encourage or require on-site for large significant projects (Santa Monica)

6. Should the program exempt certain private projects?

- Where art is deemed inappropriate or inaccessible, such as interior garages, certain industrial uses?
- Where other policy objectives prevail: eg. affordable housing, child care centers
- Very small projects. (Typical feature; need for threshold.)
- The non-profit sector

7. If On-site art compliance is a key part of the program

- What are the criteria for what kinds of art are acceptable and what is clearly not?
- What is the art placement criteria – publicly accessible.? Exterior of buildings or interior accessible to the public during normal business hours is common.
- What counts toward the 1% valuation – art installation, transportation, etc. Consultants? What does not count?
- What should be the process and procedures. (Usually entails both City staff and an appointed commission or committee.)

8. If an in lieu payment is part of the program:

- There is a need to establish trust fund to receive and hold in lieu payment revenues and disburse funds.
- There is a need to specify use of funds for art. May be general, but at some point, it would be desirable to prepare a Master Plan to set priorities and guide the disbursement of funds,
- A commission, or specially appointed committee will need to oversee the trust fund, be responsible for disbursements, etc.
- Process and procedures for making disbursements or grants will need to be established.

NOTE: The consultant report will amplify on the choices, cite experience elsewhere, and make recommendations. Materials from other cities will also be provided.

IV. Overview of Programs in Other Jurisdictions

The following is a brief overview of programs in other jurisdictions followed by a matrix summarizing key features of the 9 programs KMA has surveyed.

- In Colorado
 - Aurora requires \$300-\$500/acre be spent on landscaping & design
 - Wheat Ridge has a small fee to generate revenue (no on-site art)
 - Vail has a Transfer Tax on all transactions, a portion of which is used for art (no on-site art)

- In Arizona
 - Tempe has a charge per square foot and encourages on-site art

- In California
 - At least 50 programs based on 1% Building Permit Valuation
 - Vigorous, complex programs in some cities like Pasadena, Santa Monica, and soon Berkeley. Others far more general, loose.

- In Eugene, OR and Madison, WI, long established strong public arts programs, but no private sector requirement.

[matrix summarizing key features of surveyed programs on next page]

**PRIVATE SECTOR ARTS REQUIREMENTS
PROGRAMS IN OTHER SELECTED CITIES
CITY OF BOULDER, CO**

Location & Name	Program Basics				Options to Meet Requirement				Exemptions	Comments
	Year Adopted/ Updated	Application Formula	Development Types	Thresholds	On Site Art	Off Site Art	Off Site Programs	In-Lieu payment/ Fee		
Aurora, CO	2010	Fixed dollar am't per acre; \$300/acre res to \$600+/acre non res.	All	None	Required	No	No	No		More about landscaping and outdoor spaces than buildings. Well-articulated process. Fee amount adjusted annually by CPI.
Wheat Ridge, CO	2011	1% City fees for BP, plan review, use tax, etc.	All	\$100,000 BPV	NA	NA	NA	1% BP, plan review and use tax or City review fees.		Public Art Fund; no on-site art component; a revenue raising measure only.
Vail, CO	NA	Transfer Tax 1% applied to all sales transactions (not just new development)	All	None	NA	NA	Yes	NA Transfer Tax		Not really an art program per se. Uses portion of real estate transfer tax for recreation, parks and open space.
Tempe, AZ	1990 2009 2011	Fee per square foot bldg. area.	Office and commercial	50,000 sf Net floor area	Yes	Not specified	Not specified	Yes \$0.43 psf (2011)		Fee adjusts annually with CPI
Madison, WI	NA	Voluntary – Encouraged & Expected	Non Residential	NA	Yes	Yes	NA	NA		Private requirement identified as a goal but not yet implemented.
Eugene, OR	NA	Voluntary	NA	NA	NA	NA	NA	NA		Private requirement to be explored but not yet adopted. Active public art program for 30+/- years.

Location & Name	Program Basics				Options to Meet Requirement				Exemptions	Comments
Santa Monica, CA	2006	2% BPV on site Or 1% BPV in lieu fee	All	Res: 5 units Commercial: New 7500 sf Remodel 25,000 sf	Yes, incl cultural	Yes	No	1% Const. cost (which is BPV enhanced)	Cultural facilities Places of worship Affordable housing	
Pasadena, CA	1992 2002 2010	1% BPV	Commercial Industrial Residential	25,000 sf	Yes, incl cultural programs	Yes	Yes	Yes	Northeast Enterprise Zone	Had program in redevelopment areas; same except for 25% of amount deposited in Cultural Trust Fund.
Oakland, CA	2014	Residential: 0.5% total cost Commercial: 1%	Residential and Non- residential	Res. 20 du's Non-res: 2000 sf.	Yes	Not specified	Not specified	Yes; also my meet 75% of req. by dedicating bldg. space for art. See comments	Affordable housing	Challenge filed in Federal Court; being monitored. Unusual feature: can satisfy 75% req. by providing rotating gallery or 50% req. by providing at least 500 sf space for arts.

Footnotes:

Special exemptions. Virtually all programs exempt projects covered by other development agreements. Most programs grandfather projects that are already in the entitlement process or receive some type of permit by a cutoff date.

BP = Building Permit or Building Permit Fee

BPV = Building Permit Valuation